



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/415,696	10/12/99	WRIGHT	D 21276-1004

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EXAMINER

PASCUA, J

ART UNIT	PAPER NUMBER
3727	3

DATE MAILED: 07/26/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/415,696

Applicant(s)  
Wright et al.

Examiner  
Jes F. Pascua

Group Art Unit  
3727



☒ Responsive to communication(s) filed on Oct 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-21 is/are pending in the application

Of the above, claim(s) 13-17 and 21 is/are withdrawn from consideration

☒ Claim(s) none is/are allowed.

☒ Claim(s) 1-12 and 18-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Oct 12, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-12 and 18-20, drawn to a reclosable fastener profile assembly, classified in class 383, subclass 63.
  - II. Claims 13-17 and 21, drawn to a method of forming a reclosable profile assembly, classified in class 264, subclass unknown.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as ultrasonically fusing the first profile strip to the second profile strip.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. During a telephone conversation with applicant's representative, Mr. Beiser, on 7/24/00 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-12 and 18-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-17 and 21 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

### *Drawings*

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for forwarding said continuous supply of first profile strip and said continuous supply of second profile strip" (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure of claim 4 (which requires an individual profile fastener assembly) is inconsistent with the structure of claim 1 (which requires a continuous fastener assembly).

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

10. Claims 1-4, 6-12 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Van Erden et al. '145.

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As a note, the head portions of ribs 29 in Van Erden et al. are considered to be arcuate to the same degree as claimed.

11. Claims 1-4, 6-8, 10, 11, 12 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tilman '537.

As a note, the head portions of ribs 13, 14 in Tilman are considered to be arcuate to the same degree as claimed.

12. Claims 1-3, 5, 6, 8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tilman '689.

13. Claims 1-3, 5-12 and 18-20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Anderson '113.

### ***Conclusion***

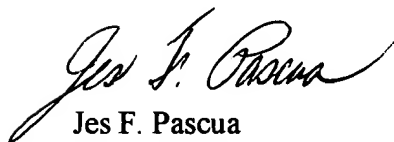
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jes F. Pascua whose telephone number is (703) 308-1153.

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In order to reduce pendency and avoid potential delays, Group 3720 is encouraging the FAXing of responses to Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the Examiner.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703) 305-3570.



Jes F. Pascua  
Primary Examiner  
Art Unit 3727  
July 24, 2000